

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

### **FACTUAL HISTORY**

On February 10, 2016 appellant, then a 41-year-old parcel post machine distribution operator, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2016 she injured her left shoulder while processing mail on an APBS 2. She stopped work on February 5, 2016.

In a February 9, 2016 return to work/school slip, Dr. Salim Meriam, a Board-certified internist, diagnosed left rotator cuff tendinitis. He advised that appellant was disabled from work for the period February 5 to 11, 2016 and could return to work on February 12, 2016 with weight and overhead arm work restrictions.

In a letter dated March 9, 2016, OWCP informed appellant that the merits of her claim had not been adjudicated as her injury initially appeared to be minor and there was minimal or no lost time from work. It advised that the claim was reopened for review of the merits as it appeared that she had not returned to full duty. OWCP advised appellant of the medical and factual evidence required to support her claim. Appellant was afforded 30 days to provide the requested evidence. Nothing was received.

By decision dated April 26, 2016, OWCP denied the claim as it found the evidence of record insufficient to establish fact of injury as she had not proven that the injury occurred as alleged.

A May 4, 2016 magnetic resonance imaging (MRI) scan showed mid and distal rotator cuff tendinitis.

Dr. Meriam, in a return to work/school slip dated April 20 and May 20, 2016, diagnosed left rotator cuff tendinitis. He advised that appellant was disabled from work for the period May 20 to July 1, 2016.

On July 26, 2016 appellant requested reconsideration.

OWCP received an April 20, 2016 return to work/school slip from Dr. Meriam on July 26, 2016 in which he related that appellant had left shoulder pain. He diagnosed rotator cuff tear. Dr. Meriam related that appellant was unable to work as of April 4, 2016.

On October 24, 2016 OWCP received reports dated July 11, August 15, September 19, and October 10, 2016 from Dr. Steven Plomaritis, an osteopathic Board-certified orthopedic surgeon. In the July 11, 2016 report, Dr. Plomaritis noted that appellant was seen for left shoulder pain and that she was not currently working. He also noted left shoulder physical examination findings, as well as MRI scan findings. Dr. Plomaritis diagnosed left shoulder acromioclavicular sprain, rotator cuff tendonopathy, trapezial discomfort, and subradiographic acromioclavicular arthritis in reports dated July 11, August 15, and September 19, 2016. On October 10, 2016 he diagnosed left shoulder calcific tendinitis, left shoulder bicipital tendinitis, and left shoulder acromioclavicular joint sprain.

By decision dated October 24, 2016, OWCP denied reconsideration. It found the evidence submitted was irrelevant to the underlying issue of whether the injury occurred as

alleged. OWCP noted that none of the evidence submitted contained a description of how the alleged January 29, 2016 work incident occurred.

On November 15, 2016 appellant requested reconsideration of the denial of her claim. She also provided a more detailed description of the alleged January 29, 2016 work incident. Appellant explained that the physical requirements of her job included lifting heavy sacks of mail and magazines. She explained that on January 29, 2016, as she lifted a heavy sack of mail into a box, her left shoulder shifted, which caused a left rotator cuff tear and tendinitis.

By decision dated February 24, 2017, OWCP modified the denial of appellant's claim. It found that she had established that the January 29, 2016 incident occurred as alleged. However, OWCP found that none of the medical evidence of record contained a rationalized opinion explaining how the diagnosed left shoulder conditions had been caused or aggravated by the accepted January 29, 2016 work incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.<sup>6</sup> First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>7</sup> Second, she must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>9</sup> Rationalized medical

---

<sup>3</sup> *Id.*

<sup>4</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>5</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

<sup>7</sup> *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>8</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

<sup>9</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the compensable employment factors.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>11</sup>

### ANALYSIS

Appellant has alleged that she sustained a left shoulder injury as a result of the accepted January 29, 2016 work incident.

The Board finds that appellant failed to meet her burden of proof to establish that her diagnosed left shoulder conditions are causally related to the accepted employment incident.

Appellant submitted disability notes dated April 20, May 20, and July 26, 2016 from Dr. Meriam diagnosing left rotator cuff tendinitis. OWCP also received reports from Dr. Plomaritis dated July 11, August 15, September 19, and October 10, 2016 noting diagnoses including left shoulder acromioclavicular sprain, rotator cuff tendonopathy, trapezial discomfort, subradiographic acromioclavicular arthritis, left shoulder calcific tendinitis, and left shoulder bicipital tendinitis. However, neither Dr. Meriam nor Dr. Plomaritis offered an opinion as to the cause of appellant's diagnosed conditions. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>12</sup> Thus, the reports from Drs. Meriam and Plomaritis are of limited probative value as they fail to provide a rationalized medical opinion on the causal relationship between appellant's accepted January 29, 2016 work incident and her diagnosed left shoulder conditions.<sup>13</sup> For this reason, this evidence is insufficient to meet appellant's burden of proof.

The record contains a May 4, 2016 MRI scan report noting mid and distal rotator cuff tendinitis. The report, while diagnosing a left shoulder condition, fails to offer a medical opinion as to how the accepted January 29, 2016 work incident caused or aggravated a medical condition.<sup>14</sup> Diagnostic reports which offer no opinion regarding causal relationship are of limited probative value.<sup>15</sup>

---

<sup>10</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006)

<sup>11</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>12</sup> *See S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>13</sup> *Id.*

<sup>14</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>15</sup> *G.H.*, Docket No. 17-1387 (issued October 24, 2017).

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.<sup>16</sup> An award of compensation may not be based on surmise, conjecture, speculation or on the employee's own belief of causal relation.<sup>17</sup> Causal relationship must be established by rationalized medical opinion evidence.<sup>18</sup> Appellant failed to submit such evidence and therefore she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a left shoulder condition causally related to the accepted January, 2016 employment incident.

---

<sup>16</sup> *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.I.*, 59 ECAB 158 (2007); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>17</sup> *S.S.*, 59 ECAB 315 (2008); *J.M.*, 58 ECAB 303 (2007); *Donald W. Long*, 41 ECAB 142 (1989).

<sup>18</sup> *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 24, 2017 is affirmed.

Issued: December 27, 2017  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board